

### **REMARKS**

Entry of the foregoing and reconsideration of the subject application are respectfully requested in light of the amendments above and the comments which follow.

Claims 1-32 were pending in this application. In this response, claims 11, 12 and 16 have been amended and claims 33-36 added. Thus, claims 1-36 remain pending.

Support for the foregoing amendments can be found, for example, in at least the following locations in the original disclosure: the original claims and the original disclosure at paragraph [0015] of the substitute specification.

### ***MATTERS OF FORM***

The specification is objected to because of informalities. Applicants have amended the specification to address the Examiner's concern described at paragraph 3 of the Office Action. Applicants respectfully request reconsideration the objection to the specification.

### ***CLAIM REJECTIONS UNDER 35 U.S.C. §102***

Claims 1, 3, 9 and 11 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,908,651 to Gustavsson et al. (hereafter "*Gustavsson et al.*") on the grounds set forth at paragraph 6 of the Official Action. This rejection is respectfully traversed.

The present disclosure relates to a liquid filling method in which, broadly, liquid supplied to a filler tank is returned to a storage tank to maintain, for example, uniformity of the liquid and

temperature of the liquid (see, para. [0015] of the substitute specification). This general feature is presented in different forms in the current claims.

For example, independent claim 1 (and dependent claim 3) recites that liquid in the filler tank is returned through a return piping attached to said filler tank and refluxed to said storage tank through a reflux path so that the liquid circulates throughout the entire filling line extending from said storage tank to said filler. Also for example, independent claim 9 (and dependent claim 11) recites that the liquid in a filler tank is returned through a return piping attached to the filler tank to the entire liquid filling line so that the liquid constantly circulates throughout the liquid filling line.

*Gustavsson et al.* is arranged and operates in a completely different manner than in the claims. *Gustavsson et al.* discloses a recovery system that includes a system to move liquid from a storage tank 14 and primary balance tank 12 to a filling station 25 through a series of heaters 20 and coolers 22. At the filling station 25, a filler feed tank 26 supplies liquid to a filler 28 that fills containers positioned below it.

*Gustavsson et al.* is concerned with and addresses the problem of recovering excess product and providing it back to the filling station for placing in containers (see, col. 2, lines 13-21 and 37-39). Overflow from the filling operation is collected by overflow tank 30. In the method in *Gustavsson et al.*, when the filling process is completed (col. 3, line 57), liquid in the overflow tank is returned to the filler tank 26 through ancillary overflow line 41 (col. 4, lines 1-4). Also, liquid in the overflow line 32 is pushed by compressed air from source 42 to the primary balance tank 32 (col. 4, lines 11-18). This is a post-processing recovery operation (col. 4, lines 8).

To anticipate a claim, the reference must teach all of the elements of the claim. See MPEP § 2131. Comparing the disclosure in *Gustavsson et al.* to claims 1 and 3 of the present application at issue here, the *Gustavsson et al.* patent does not return liquid in said filler tank through a return piping attached to said filler tank and refluxed to the storage tank as presented in claims 1 and 3. In fact, *Gustavsson et al.* adds the overflow liquid back to the filler tank through ancillary overflow line 41 and then uses all of the material in the filler tank to fill containers. *Gustavsson et al.* is concerned with using all of the material in the filler tank and not sending the filler tank material back to a storage tank. In light of at least this difference, Applicants respectfully submits that an anticipatory rejection of claims 1 and 3 is improper since *Gustavsson et al.* does not disclose the invention as claimed.

Comparing the disclosure in *Gustavsson et al.* to claims 9 and 11 of the present application at issue here, the *Gustavsson et al.* patent does not operate to constantly circulate liquid as claimed in claims 1 and 3. *Gustavsson et al.* is expressly a post-processing recovery cycle and a process that occurs at the end of a product run (see, col. 4, line 8 and col. 3, line 57, respectively). In light of at least this difference, Applicants respectfully submits that an anticipatory rejection of claims 9 and 11 is improper since *Gustavsson et al.* does not disclose the invention as claimed.

Further and contrary to the Examiner's note in paragraph 5, there is no correlation between the ordinary use and operation of the apparatus in *Gustavsson et al.* and the claimed methods and operations. Thus, there is no basis for the Examiner's conclusion that *Gustavsson et al.* necessarily performs the claimed method. The above discussion on the differences

between *Gustavsson et al.* and the claims has definitively shown that *Gustavsson et al.* operates completely differently from the claimed method.

Based on at least the above reasons, reconsideration and withdrawal of the rejection of claims 1, 3, 9 and 11 are respectfully requested.

Claims 1, 3, 4, 6, 7, 8, 9, 11, 12, 14, 15, 16, 18, 19, 21, 22, 24, 28 and 31 are rejected under 35 U.S.C. §102(b) as being anticipated by Japanese Patent Publication No. 11/249466 (hereafter "*JPP*") on the grounds set forth at paragraph 9 of the Official Action. This rejection is respectfully traversed.

The present disclosure relates to a liquid filling method in which, broadly, liquid supplied to a filler tank is returned to a storage tank to maintain, for example, uniformity of the liquid and temperature of the liquid (see, para. [0015] of the substitute specification). The disclosure and claims describe the conditions under which and the manner in which the liquid in the filler tank is returned to the storage tank. For example, each independent claim (i.e., claims 1, 4, 9 and 12) recites that the liquid circulates throughout the entire liquid filling line. Also for example, independent claim 9 recites that the liquid constantly circulates throughout said liquid filling line.

*JPP* is arranged and operates in a completely different manner than in the claims. *JPP* discloses a recovery system that includes a system to move liquid from a cushion tank 4 through a heater 8 to a first pressure tank 12. Downstream of the first pressure tank 12 is a second pressure tank 22, which supplies liquid to a filling station in the form of wheel 24 and nozzle 26. Prior to the first pressure tank 12 is a first return path 15. This forms what *JPP* calls a 1<sup>st</sup> Dibbah John circuit. When the level in the first pressure tank 12 past a setpoint, the 1<sup>st</sup> Dibbah John

circuit operates to return liquid to the cushion tank. In that mode of operation, liquid does not even enter the fill tank (which is the second pressure tank 22). After the second pressure tank 22 and before the filling station is a return path 32 back to the cushion tank 4. Both the 1<sup>st</sup> Dibbah John circuit and the return path pass through a cooler 16.

*JPP* is concerned with and operates to supply liquid to a filler and, after a suspension time of 20 minutes, either (a) circulates upstream material through the 1<sup>st</sup> Dibbah John circuit and (b) circulates material in the filling lines from after the 1<sup>st</sup> Dibbah John circuit to the filling station through a return line (see paras. [0020] to [0024]). In addition, at least some liquid is lost from the system in *JPP* because a guttering line 52 is used to expel some liquid (para. [0024]).

To anticipate a claim, the reference must teach all of the elements of the claim. See MPEP § 2131. Comparing the disclosure in *JPP* to claims 1, 4, 9 and 12 of the present application at issue here, the *JPP* patent does not return liquid to said filler tank through a return piping attached to said filler tank so that liquid circulates throughout the entire liquid filling line. Rather, *JPP* uses the 1<sup>st</sup> Dibbah John circuit to circulate the upstream liquid volume and, therefore, liquid is not returned through the entire liquid filling line. Further and comparing the disclosure in the *JPP* patent to claim 9, there is no disclosure of liquid constantly circulating throughout the liquid filling line. Rather, *JPP* does not use the 1<sup>st</sup> Dibbah John circuit or the return line unless the associated tanks provide a signal to do so and *JPP* expressly states that for a suspense time of 20 minutes there is no circulation at all. In light of at least this difference, Applicants respectfully submits that an anticipatory rejection of claims 1 and 3 is improper since *Gustavsson et al.* does not disclose the invention as claimed.

Further and contrary to the Examiner's note in paragraph 5, there is no correlation between the ordinary use and operation of the apparatus in *JPP* and the claimed methods and operations. Thus, there is no basis for the Examiner's conclusion that *JPP* necessarily performs the claimed method. The above discussion on the differences between *JPP* and the claims has definitively shown that *JPP* operates completely differently from the claimed method.

Based on at least the above reasons, reconsideration and withdrawal of the rejection of claims 1, 3, 4, 6, 7, 8, 9, 11, 12, 14, 15, 16, 18, 19, 21, 22, 24, 28 and 31 are respectfully requested.

***CLAIM REJECTIONS UNDER 35 U.S.C. §103***

Claims 2, 5, 10, 13, 17, 20, 23, 25, 26, 27, 29, 30 and 32 are rejected under 35 U.S.C. §103(a) as being unpatentable over ("JPP") in view of U.S. Patent No. 4,809,595 to Catelli (hereafter "*Catelli*") on the grounds set forth at paragraph 15 of the Official Action. This rejection is respectfully traversed.

As discussed above, *JPP* is deficient in that the *JPP* patent does not return liquid to said filler tank through a return piping attached to said filler tank so that liquid circulates throughout the entire liquid filling line and, with respect to claim 9, there is no disclosure of liquid constantly circulating throughout the liquid filling line. *Catelli* also has no disclosure to these features missing from *JPP*. Thus, the proposed combination cannot meet the requirements of an obviousness rejection because the present rejection does not address this noted deficiency in any way. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

**NEW CLAIMS**

New claims 33-36 have been added and recite that at least a portion of the liquid in the filler tank is constantly refluxed to the storage tank through the reflux path. Neither *Gustavsson et al.* nor *JPP* disclose such an arrangement. Accordingly, these new claims distinguish over the cited prior art.

**CONCLUSION**

From the foregoing, further and favorable action in the form of a Notice of Allowance is earnestly solicited. Should the Examiner feel that any issues remain, it is requested that the undersigned be contacted so that any such issues may be adequately addressed and prosecution of the instant application expedited.

Respectfully submitted,

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Date: May 1, 2008

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